

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 06-20080

ANTONIO BARNETT,

Honorable Arthur J. Tarnow
Magistrate Judge R. Steven Whalen

Defendant.

**ORDER ADOPTING THE REPORT AND RECOMMENDATION [36]; AND GRANTING DEFENDANT'S
SUPPLEMENTAL MOTION TO SUPPRESS EVIDENCE [31]**

Before the court are the Government's objections to Magistrate Judge Whalen's report and recommendation entered on April 15, 2008.

Even considering the informant's statements that were omitted from the affidavit in support of the search warrant, the information included in the affidavit, and the substantial experience of the officers, there was no probable cause to effect the arrest.

The police officers' corroboration of what the confidential informant had told them was minimal. Although the officers confirmed that Barnett stopped at the Hartwell residence a few times, there was no corroboration beyond this neutral fact. The officers were not able to confirm that Barnett was actually in possession of or in the process of distributing cocaine. Nor can the government point to any statement or conduct by Barnett subsequent to the affidavit but before the arrest that would cumulatively amount to probable cause to justify the arrest.

The Court ADOPTS Magistrate Judge Whalen's report and recommendation.

Accordingly, the motion to suppress evidence is GRANTED.

SO ORDERED.

S/ARTHUR J. TARNOW
Arthur J. Tarnow
United States District Judge

Dated: July 29, 2008

I hereby certify that a copy of the foregoing document was served upon counsel of record on July 29, 2008, by electronic and/or ordinary mail.

S/THERESA E. TAYLOR
Case Manager